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8 *As Trustee f/b/o holders of*
9 *Structured Asset Mortgage*
Investments II Inc., Bear Sterns ALT-A
Trust, Mortgage Pass-Through
Certificates, Series 2006-3

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

13 U.S. BANK N. A., AS TRUSTEE F/B/O
14 HOLDERS OF STRUCTURED ASSET
15 MORTGAGE INVESTMENTS II INC.,
16 BEAR STEARNS ALT-A TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-3.

17 Plaintiff,

18 | vs.

19 CAPITOL REEF REVOCABLE TRUST, a
20 Nevada trust; FALLS AT HIDDEN
21 CANYON HOMEOWNERS
ASSOCIATION, INC., a Nevada non-profit
corporation.

Defendants.

CASE NO. 2:16-CV-02774-RFB-PAL

**STIPULATION TO AMEND
DISCOVERY PLAN AND
SCHEDULING ORDER
(SECOND REQUEST)**

24 Plaintiff U.S. Bank N. A., as Trustee f/b/o Holders of Structured Asset
25 Mortgage Investments II Inc., Bear Stearns ALT-A Trust, Mortgage Pass-Through
26 Certificates, Series 2006-3 (“Trustee”); Defendant Capitol Reef Revocable Trust
27 (“Capitol Reef”); and Defendant Falls at Hidden Canyon Homeowners Association,
28 Inc. (the “Association”) (collectively, the “Parties”) hereby submit this Stipulation to

1 Amend Discovery Plan and Scheduling Order pursuant to LR IA6-1 and LR 26-4.

2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. STATEMENT OF FACTS**

4 Trustee commenced this litigation on December 2, 2016. (ECF No. 1). On
5 December 19, 2016, Trustee filed Proof of Compliance with Federal Rule of Civil
6 Procedure 5.1(a) giving notice of constitutional question to the Nevada Attorney
7 General. (ECF No. 4). On April 5, 2017, the Association filed its answer to
8 Trustee's complaint. (ECF No. 10). On April 14, 2017, Capitol Reef filed a motion
9 to dismiss Trustee's complaint. (ECF No. 14). The Court has not yet ruled on this
10 motion.

11 On May 22, 2017, the Parties filed a Stipulated Discovery Plan and
12 Scheduling Order. (ECF No. 18). On May 31, 2017, the Court granted the
13 Stipulated Discovery Plan and Scheduling Order (the "Scheduling Order"). (ECF
14 No. 19). On October 9, 2017, the Parties filed a Stipulation to Amend Discovery
15 Plan and Scheduling Order (First Request). (ECF No. 25). On October 18, 2017,
16 the Court granted the Stipulation to Amend Discovery Plan and Scheduling Order
17 (First Request). (ECF No. 27).

18 The Parties have been prosecuting this matter without intentional delays.
19 However, the Parties agree that a short extension of the dispositive motion and
20 joint pretrial order deadlines is necessary and warranted. In light of the
21 intervening holidays, an extension is necessary to permit better access to and
22 communication with the respective parties regarding dispositive motions and to
23 further settlement discussions. More importantly, an extension will allow all
24 parties to discuss settlement options prior to undertaking the expense of briefing
25 dispositive motions.

26 **II. LOCAL RULE 26-4 REQUIREMENTS**

27 **A. Discovery Completed**

28 Trustee has completed the following:

- 1 i. Service of its Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
- 2 ii. Service of its Request for Admissions, Requests for Production of
- 3 Documents, and Interrogatories to the Association;
- 4 iii. Service of its Request for Admissions, Requests for Production of
- 5 Documents and Interrogatories to Capitol Reef;
- 6 iv. Service of Subpoena Duces Tecum on Hampton & Hampton
- 7 Collections, LLC, collections agent for the Association;
- 8 v. Responded to the Association's Request for Admissions,
- 9 Requests for Production of Documents, and Interrogatories; and
- 10 vi. Taking depositions of Capitol Reef, the Association, and
- 11 Hampton & Hampton.

12 The Association has completed the following:

- 13 i. Service of its Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
- 14 ii. Service of its Request for Admissions, Requests for Production of
- 15 Documents, and Interrogatories to Trustee; and
- 16 iii. Responded to Trustee's Request for Admissions, Requests for
- 17 Production of Documents, and Interrogatories.

18 Capitol Reef has completed the following:

- 19 i. Service of its Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
- 20 and
- 21 ii. Responded to the Association's Request for Admissions,
- 22 Requests for Production of Documents, and Interrogatories.

23 **B. Discovery to be Completed**

24 None. All discovery is complete.

25 **C. Good Cause Exists for Extending Discovery Plan Deadlines**

26 Since the Court issued its Scheduling Order, the Parties have fully briefed
27 Capitol Reef's Motion to Dismiss the Complaint. The parties also have completed
28 discovery. The Parties agree that a short extension of the dispositive motion and

1 joint pretrial order deadlines is necessary and warranted. An extension will allow
2 all parties time to discuss settlement options prior to briefing dispositive motions.
3 Productive settlement discussions are more likely to result in a favorable outcome
4 at this time because all parties have the benefit of completed discovery. Thus, it is
5 beneficial, necessary, and most efficient to extend the dispositive motions deadline
6 so that the Parties can best assess settlement possibilities.

7 In addition, in light of the intervening holidays, access to client decision-
8 makers and client information is somewhat hindered. An extension of the
9 dispositive motion and pre-trial order deadline will allow the parties to better
10 communicate with their respective clients to further settlement discussions and
11 more efficiently brief dispositive motions.

12 **D. Proposed Schedule**

13 By this Stipulation, the Parties seek to amend the schedule as set forth on
14 page 2 of the Order to extend the dispositive motions and joint proposed trial order
15 deadlines by twenty-one (21) days:

16 1. Dispositive motion deadline: **January 23, 2018**; and
17 2. Joint proposed pretrial order: **February 22, 2018**.

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1 **III. CONCLUSION**

2 For the above-stated reasons, the Parties respectfully request that this Court
3 enter an Order approving this Stipulation to Amend the Discovery Plan and
4 Scheduling Order (Second Request) using the new deadlines noted above.

5 Dated December 27, 2017.

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41 *Attorneys for Plaintiff*

42 **ORDER**

43 IT IS SO ORDERED:

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47 UNITED STATES MAGISTRATE JUDGE

48 DATED: January 4, 2018